D.B. INCOME TAX APPEAL NO.07/2007

CIT, Udaipur **Vs.** M/s Chetak Marmo Pvt. Ltd.

Date : 02.03.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA

HON'BLE MR. JUSTICE CHATRA RAM JAT

Mr. K.K. Bissa for the appellant.

Heard learned counsel for the appellant.

The following question of law has been sought to be raised as substantial question of law for consideration in this appeal:-

(i) Whether on the facts and in the circumstances of the case as well as in the law the learned Tribunal is justified in upholding the decision passed by the CIT (A) reducing the addition ignoring the substantial fact finding given by the AO regarding unexplained income of the assessee?

A perusal of the aforesaid question shows that it is not a substantial question of law which can be entertained for consideration.

Even otherwise, issue is about additions made by the Assessing Officer of the amount received by the assessee as share application money which was credited in the books of accounts of the assessee. The explanation about receipt the share application money submitted by the assessee was rejected and the additions were made by resorting to section 68 of the Income Tax Act, 1961 treating the same to be unexplained cash credit.

The Commissioner (Appeals) found that the identity of each of the share applicant stood established on record and, therefore, the additions could not have been made in the income of the assessee on account of receipt of share application money along with the share application form and there is no nexus with the flow of the share application money which could be traced to the assessee. The order of the CIT (A) has been affirmed

by the Tribunal.

According to the CIT (Appeals) as well as the Tribunal the issue was squarely governed by the decision of this Court in Barkha Synthetics Ltd. Vs. ACIT [2005] 197 CTR (Raj) 432 laying down the aforesaid ratio.

The decision in Barkha Synthetics Ltd. Was rendered in similar circumstances is not in dispute.

In the facts and circumstances of the case, as the principle laid down in Barkha Synthetic Ltd's case has been applied to the facts of the present case, which warranted the application of that ratio, no substantial questions of law arise for consideration in this appeal.

The appeal, therefore, is dismissed.

[CHATRA RAM JAT], J. [RAJESH BALIA], J.

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